

REMARKS/ARGUMENTS

The Examiner delineated the following inventions as being patentably distinct:

Group I: Claims 1-4, drawn to a compound.

Group II: Claims 5-11, drawn to an organic electroluminescence device.

Applicants provisionally elect with traverse the invention of Group I (Claims 1-4) drawn to a compound.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The claims of Groups I and II are related as product and the use thereof, and as such are considered interdependent and should be examined together on the merits especially wherein the sole disclosed utility of the product is that disclosed in the specification.

There is a commonality that exists between the groups. It is a technical relationship that defines the contribution which each of the groups taken as a whole makes over the prior art.

Different classification of subject matter to be divided is not conclusive proof of independent status and divisibility. Product and method of using are considered related inventions under 37 C.F.R. § 1.475(b), and unity of invention between the groups exists.

Applicants respectfully traverse on the additional ground that the Office has not shown that a burden exists in searching the entire application.

Further, the MPEP at § 803 states as follows:

“If the search and examination of the entire application can be made without a serious burden, the Examiner must examine it

on its merits, even though it includes claims to distinct independent inventions.”

Applicants respectfully submit that a search of all of the claims would not impose a serious burden on the Office. In fact, the International Search Authority has searched all of the claims together. As the Office has not shown any evidence that a restriction should now be required when the International Preliminary Examination Report did not, the restriction is believed to be improper. 37 C.F.R. 1.475(b) provides in relevant part that a “national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to ... (3) a product and method.”

For the reasons set forth above, Applicants request that the Restriction Requirement be withdrawn.

Applicants further request that if the invention of Group I is found allowable, withdrawn Group II which includes the limitations of allowable claims be rejoined.

Respectfully submitted,

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